

Message Text

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ACTION IO-13

INFO OCT-01 ADP-00 IOE-00 SSO-00 NSCE-00 USIE-00 INRE-00

CIAE-00 DODE-00 PM-07 H-02 INR-10 L-03 NSAE-00 NSC-10

PA-03 RSC-01 PRS-01 SS-15 AF-10 ARA-11 EA-11 EUR-25

NEA-10 ACDA-19 RSR-01 /153 W
----- 010926

O R 231114 Z MAY 73

FM USMISSION GENEVA

TO SECSTATE WASHDC IMMEDIATE 9465

INFO USUN NEWYORK 8858

C O N F I D E N T I A L SECTION 1 OF 2 GENEVA 2447

E. O. 11652: GDS

TAGS: PFOR, UN

SUBJECT: DEFINITION OF AGGRESSION COMMITTEE: CHAIRMAN'S
REPORTS ON CONTACT GROUPS I AND IV

1. AT WG MEETING MAY 22, CHAIRMAN (BROMS) SUBMITTED
" PROGRESS REPORTS" ON CONTACT GROUPS I (GENERAL
DEFINITION) AND IV (LEGAL USES AND LEGAL CONSEQUENCES).
TEXTS FOLLOW:

2. QUOTE. CONTACT GROUP I

THERE IS GENERAL AGREEMENT THAT THE DEFINITION
OF AGGRESSION SHOULD INCLUDE THE FOLLOWING TEXT AS
THE GENERAL DEFINITION OF AGGRESSION:

ARTICLE 1

AGGRESSION IS THE USE OF ARMED FORCE (HOWEVER
EXERTED) BY A STATE AGAINST THE SOVEREIGNTY,
TERRITORIAL INTEGRITY OR POLITICAL INDEPENDENCE OF
ANOTHER STATE, OR IN ANY MANNER INCONSISTENT WITH THE
CHARTER OF THE UNITED NATIONS, AS SET OUT IN THIS
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DEFINITION.

EXPLANATORY NOTE:

IN THIS DEFINITION THE TERM " STATE"

(A) IS USED WITHOUT PREJUDICE TO QUESTIONS OF RECOGNITION OR TO WHETHER A STATE IS A MEMBER OF THE UNITED NATIONS, AND

(B) INCLUDES THE CONCEPT OF A " GROUP OF STATES".

ONE MEMBER OF THE CONTACT GROUP HAS PROPOSED THAT THE WORDS (HOWEVER EXERTED) BE REPLACED BY " IN ANY FORM" AND THAT THE TEXT WOULD READ " INCONSISTENT WITH THE PRINCIPLES AND PURPOSES OF THE CHARTER". ANOTHER MEMBER HAS PROPOSED THAT THE TEXT WOULD READ " INCONSISTENT WITH THE PRINCIPLES AND PROVISIONS OF THE CHARTER".

ONE MEMBER RESERVES ITS POSITION AS TO THE TERM " SOVEREIGNTY" IN THE TEXT AND AS TO THE EXPLANATORY NOTE (B) M
END QUOTE.

3. COMMENT. ALTHOUGH DELEGATION RESISTED INCLUSION OF TERM " SOVEREIGNTY" IN GENERAL DEFINITION, WE FINALLY AGREED TO ITS INCLUSION FOR PURPOSES CG REPORT IN EXCHANGE FOR AGREEMENT ON PART OF SPAIN AND OTHER NON- ALIGNED DELS TO DROP INSISTENCE ON INCLUSION OF REFERENCE TO " TERRITORIAL WATERS AND AIRSPACE." AS NOTED GENEVA 2396 PARA 10, DIFFERENCES OF OPINION WITHIN SIX ON " TERRITORIAL WATERS" MADE ANY FORMULATION ON THIS SUBJECT POTENTIALLY AWKWARD. SPAIN REQUESTED THAT FINAL REPORT OF COMMITTEE INDICATE COMMITTEE' S AGREEMENT THAT TERM " TERRITORIAL INTEGRITY" DOES COVER TERRITORIAL WATERS AND AIRSPACE. WE BELIEVE INCLUSION OF WORD " SOVEREIGNTY", THOUGH ADMITTEDLY INVOLVING MORE ABSTRACT CONCEPTS THAN OTHERS USED (AS NOTED STATE 86428), IS ACCEPTABLE HERE, ESPECIALLY WITH ADDITION OF WORDS " AS SET OUT IN THIS DEFINITION" AT END OF SENTENCE. RESERVATION IN REPORT RE " SOVEREIGNTY" AND EXPLANATORY NOTE (B) WAS MADE BY SOVIET DEL.

3. QUOTE. CONTACT GROUP 4

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THERE IS GENERAL AGREEMENT THAT THE DEFINITION OF AGGRESSION SHOULD INCLUDE THE FOLLOWING TEXT ON THE LEGAL USES OF FORCE, INCLUDING THE QUESTION OF CENTRALIZATION:

ARTICLE....

NOTHING IN THIS DEFINITION SHALL BE CONSTRUED AS IN

ANY WAY ENLARGING OR DIMINISHING THE SCOPE OF THE CHARTER
INCLUDING ITS PROVISIONS CONCERNING CASES IN WHICH THE
USE OF FORCE IS LAWFUL.

THERE IS ALSO GENERAL AGREEMENT THAT THE DEFINITION OF
AGGRESSION SHOULD INCLUDE THE FOLLOWING TEXT, ALTHOUGH THE
CONTACT GROUP DID NOT DECIDE FINALLY WHERE IT SHOULD BE
INSERTED:

NO CONSIDERATION OF WHATEVER NATURE, WHETHER POLITICAL,
ECONOMIC, MILITARY OR OTHERWISE, MAY SERVE AS A JUSTIFICATION
FOR AGGRESSION.

ONE MEMBER OF THE CONTACT GROUP PROPOSES THAT THE
FOLLOWING WORDS BE ADDED AFTER THE WORD " OTHERWISE":
" RELATING TO THE INTERNAL OR FOREIGN POLICY OF A STATE"
AND THAT THE WORDS " AS HEREIN DEFINED" BE ADDED TO THE
END OF THE SENTENCE.

ON BEHALF OF THE 13- POWER GROUP IT WAS ANNOUNCED THAT
THE GROUP HAS NOT TAKEN A FINAL DECISION ON THE QUESTION
OF THE LEGAL USES OF FORCE.

THERE IS, FURTHERMORE, GENERAL AGREEMENT THAT THE
DEFINITION OF AGGRESSION SHOULD INCLUDE THE FOLLOWING
TEXT ON THE LEGAL CONSEQUENCES OF AGGRESSION:

ARTICLE

AGGRESSION CONSTITUTES () AGAINST INTER-
NATIONAL PEACE GIVING RISE TO RESPONSIBILITY UNDER INTER-
NATIONAL LAW.

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C O N F I D E N T I A L SECTION 2 OF 2 GENEVA 2447

FIVE VARIOUS ALTERNATIVES HAVE BEEN CONSIDERED AS
REGARDS THE BRACKETS. THESE ALTERNATIVES ARE AS FOLLOWS:

1. " A GRAVE VIOLATION"
2. " A CRIME"
3. " CRIMINAL VIOLATION"
4. NO PROVISION ON THE LEGAL CONSEQUENCES OF AGGRESSION
AT ALL.
5. TO INSERT THE WORDING: " AGGRESSION GIVES RISE TO
RESPONSIBILITY UNDER INTERNATIONAL LAW."

THERE IS GENERAL AGREEMENT, FURTHERMORE, THAT THE LEGAL
CONSEQUENCES OF AGGRESSION SHOULD INCLUDE THE FOLLOWING
TEXT;

NO TERRITORIAL ACQUISITION OR SPECIAL ADVANTAGE RESULT-
ING FROM AGGRESSION IS LAWFUL, NOR SHALL IT BE RECOGNIZED
AS SUCH.

ONE MEMBER OF THE CONTACT GROUP RESERVES ITS POSITION
REGARDING THE INCLUSION OF THE TERM " OR SPECIAL ADVANTAGES."

ONE MEMBER OF THE CONTACT GROUP SUPPORTS THE INCLUSION
OF THE TEXT PRINTED ON PAGE 23 OF LAT YEAR' S REPORT (IN
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THE ENGLISH VERSION).

IT HAS FURTHERMORE BEEN PROPOSED THAT THE FOLLOWING
PARAGRAPH BE INCLUDED TO THE PREAMBLE OF THE DEFINITION OF
AGGRESSION:

REAFFIRMING THAT THE TERRITORY OF A STATE IS INVIOLEABLE
AND THAT IT SHALL NOT BE THE OBJECT, EVEN TEMPORARILY, OF
MILITARY OCCUPATION OR OF OTHER MEASURES OF FORCE TAKEN
BY ANOTHER STATE IN CONTRAVENTION OF THE CHARTER; UNQUOTE.

4. COMMENT. THE RESERVATION RE TERM " SPECIAL ADVANTAGE"
WAS MADE BY UK DEL WHO REPRESENTED SIX IN GROUP 4 WHEN CG
REPORT AGREED TO.

5. REQUEST DEPARTMENT' S GUIDANCE AS TO ANY NEGATIVE POSI-
TION WE SHOULD TAKE ON ISSUES COVERED IN THESE REPORTS.
WE INTEND PLACE ON RECORD OUR UNWILLINGNESS ACCEPT
(1) PROVISION ON CRIMINAL RESPONSIBILITY EXCEPT IN
TERMS SET FORTH IN FRIENDLY RELATION DECLARATION (PARA A.2.
UNDER " LEGAL CONSEQUENCES", P. 17 OF 1972 REPORT); AND

(2) REFERENCE TO " SPECIAL ADVANTAGES" IN TEXT ON RECOGNITION OF RESULTS OF AGGRESSION, ON GROUND IT COULD BE USED REOPEN A WIDE VARIETY OF HISTORICAL ISSUES. BASSIN

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